

Message Text

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ACTION L-03

INFO OCT-01 IO-15 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-10

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SPC-03 SS-15

USIA-15 ACDA-19 AF-10 ARA-16 EA-11 EUR-25 NEA-10 SY-10

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FM USMISSION USUN NEWYORK

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E.O. 11652: N/A

TAGS: PINS, UNGA

SUBJ: UNGA - LEGAL COMITE - PROTECTION OF DIPLOMATS

REF: USUN 3621

1. IN LENGTHY MEETING OF VAN BRUSSELEN GROUP OCT 5, LITTLE PROGRESS ON SUBSTANCE MADE BEYOND THAT REPORTED REFTEL. COMMENT: ALTHOUGH PROGRESS SLOW SPIRIT OF COOPERATION SHOWN BY ALMOST ALL (I.E. EXCEPT FRANCE AND SPAIN) IN SERIES OF LENGTHY MEETINGS HAS BEEN NOTEWORTHY. END COMMENT.

2. ON MOTIVE ISSUE, FRG, FRANCE, AND NETHERLANDS ARGUED FOR INCLUSION OF CONCEPT. FINLAND STARTED TO WAIVER FROM OPPOSITION TO FAVORING INCLUSION OF CONCEPT. SWITZERLAND AND BELGIUM SAID THEY COULD ACCEPT JAPANESE FORMULATION (CONTAINED USUN 3582). CANADA, AUSTRIA, AND US, WITH ITALY NOW SUPPORTING (AND HAVING REQUESTED NEW INSTRUCTIONS), ARGUED STRONGLY AGAINST INCLUSION OF MOTIVE ELEMENT. IN FACT, INSISTENCE OF ZEMANEK (AUSTRIA) CASE FOR KEEPING OUT EVEN KNOWLEDGE REQUIREMENT (CONSISTENT WITH ABSOLUTE DUTY TO PROTECT DIPLOMATS

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CONTAINED ARTICLE 29 VIENNA CONVERSATION OF DIPLOMAT

RELATIONS) WAS EFFECTIVELY MADE.

3. IN VIEW OF STRONG NEGATIVE SENTIMENTS RE INCLUSION OF BOTH KNOWLEDGE AND MOTIVE ELEMENTS, AT THIS POINT VAN BRUSSELEN SUGGESTED, AND NO ONE OBJECTED, THAT GROUP SUBMIT AMENDMENTS TO ARTICLE 2 TRANSMITTED REFTEL AND TO KEEP IN RESERVE FORMULATIONS ON KNOWLEDGE AND MOTIVE, FOR POSSIBLE USE, IF NECESSARY, SHOULD REPS FROM OTHER GROUPS PROPOSE WORSE LANGUAGE. UK DEL SUGGESTED BEST FORMULATION ON "KNOWLEDGE" TO HOLD IN RESERVE WOULD BE: "UNLESS IT IS ESTABLISHED THAT THE ALLEGED OFFENDER HAD NEITHER KNOWLEDGE OF NOR REASON TO KNOW THE OFFICIAL STATUS OF THE VICTIM." (COMMENT: IT NOT CLEAR WHETHER FRG AND JAPANESE CAN LIVE WITH THIS APPROACH THOUGH THEIR REPS APPEAR TO HAVE ACQUIESCED FOR TIME BEING. END COMMENT.)

4. BELGIUMS VOLUNTEERED TO SEEK COSPONSORS. IF POSSIBLE, AND TO INTRODUCE AMENDMENT TO SUBPARAS (A) AND (B), AS WELL AS AMENDMENT DELETING FINAL CLAUSE OF PARA 2 ("WHICH TAKE INTO ACCOUNT...."). THIS LATTER CHANGE AGREED WITHOUT DIFFICULTY.

5. JAPAN AND UK ASKED TO DRAFT PROPOSED AMENDMENT ON JURISDICTION SCHEME. (DELOFF WILL ATTEND DRAFTING SESSION SCHEDULED FOR AM OCT 6).

6. WITH TWO MEETINGS OF 6TH COMITE SCHEDULED FOR OCT 8, NEXT MEETING OF VAN BRUSSELEN GROUP LIKELY EVENING OCT 8.
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